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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,277	03/25/1999	WILLIAM CARTER CARROLL BULLARD	10360/022001	1888

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EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/276,277

Applicant(s)

BULLARD, WILLIAM CARTER
CARROLL

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

Period of Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15, 19-22, 24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-15, 19-22, 24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other:

DETAILED ACTION

1. Claims 2-15, 19-22, 24 and 26-28 are pending. Claims 1, 16-18, 23 and 25 have been cancelled by the Applicant via the 26 February 2002 Amendment.
2. The 11 June 2002 Amendment has been entered. The Final Rejection dated 10 April 2002 is hereby withdrawn. The proposed drawing corrections are acceptable. However, the proposed drawing correction to Fig. 2 does not clearly disclose data collectors 52b-52d. It is noted that the objections to the specification were related to the 35 U.S.C. 112 rejection. Cognizant of Applicant's comments regarding wasted resources, the responses received and subsequent telephone interview conducted 27 August 2002 (mailed 8/30/02) was deemed fruitful, from the Examiner's perspective, in clarifying issues that were deemed properly raised.

Specification

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. The abstract of the disclosure is objected to because it does not properly correlate to the claimed invention. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-15, 19-22, 24 and 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, lines 3-6 and 8 “IP” is not defined and not clear. If Applicant intends this acronym to mean “internet protocol” it is suggested that the phrase – internet protocol – be inserted therein. Otherwise, other reasonable definitions may be inferred. Correction of other claims presenting this issue, e.g. claims 9, 19, 24, is required.

Claim 2, line 7, "the imbedded IP packet" lacks antecedent basis and is not clear what is being referenced. The previous 13 words preceding this phrase are noted, but do not provide proper antecedent basis therefore.

Claim 2, line 10, "the results" lacks antecedent basis and is not clear what is being referenced.

Claim 24, line 14, "the results" lacks antecedent basis and is not clear what is being referenced.

The Examiner regrets that these rejections were not previously raised.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-15, 19-22, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen, US 6,452,915.

Jorgensen discloses a system, e.g. Figs. 5b, 5c, 7, comprising an internet protocol flow network layer 408, 429 using internet control message protocol and transmission control protocol 410 to perform error control functions where data is carried. Inherently a processor and memory 104 including a network packet carrying the data would be included in the network. To determine and correlate and use results thereof for Jorgensen would have been obvious to one of ordinary skill in the art. Doing such would use well known data analysis functions that are common knowledge in the art. To provide a computer program to execute the system of Jorgensen would have been obvious to one of ordinary skill in the art. Applicant's intended use claim language, e.g. claim "for an accounting application" and claim 19, line 2 "for an accounting application" do not provide positive recitations that define patentable subject matter.

9. Applicant's 9 September 2002 Information Disclosure Statement (IDS) has been reviewed. It is noted that item E does not qualify as prior art. See the attached IDS.

10. Applicant's 21 November 2002 IDS has been reviewed. It is noted that item P40 does not qualify as prior art. However P40 was reviewed, along with the other prior art cited thereon. The Examiner regrets the line that appears on the signed IDS.

11. Further pertinent references of interest:

Boivie, US 6,415,312, discloses a packet based data network using internet control message protocol (ICMP).

Bullard et al., US 6,405,251, discloses in Fig. 4 accounting used in a packet data flow.

Bhoj et al., US 6,304,892, discloses in column 5 accounting service in a network system.

Kerr et al., US 6,243,667, discloses a flow of a set of information packets.

Wiegel, US 6,131,163, discloses a processor 102 and memory 104 used in a network system.

Meriwether et al., US 5,931,913, discloses a computer program product including a processor and memory using transmission control protocol in a communications system.

Carr, US 5,923,659, discloses a telecommunications network.

Carr, US 5,293,379, discloses, e.g. col. 5, lines 1+, an internet protocol/transmission control protocol in a packet based data network.

Conclusion

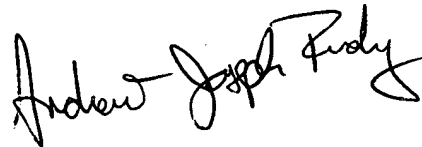
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, Mr. Richard Chilcot, Primary Examiner, can be reached on 703-305-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

January 22, 2003

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is written in a cursive, flowing style with a large, stylized "R" at the end.